



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

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CHICAGO, IL 60604-3590

DEC 10 2009

REPLY TO THE ATTENTION OF:

E-19J

Richard A. Cohn, Chief
Capacity Planning and Site Selection Branch
Federal Bureau of Prisons
320 First Street, NW
Washington, DC 20534

**Re: Comments on the Draft Environmental Impact Statement (DEIS) for the
Criminal Alien Requirement 9 Proposal, CEQ#20090377**

Dear Mr. Cohn:

This letter is submitted in accordance with our agency's responsibilities under the National Environmental Policy Act (NEPA), and Section 309 of the Clean Air Act. The proposed project is to provide low-security confinement facilities for up to 2,500 federal, adult male, non-US-citizen, criminal aliens.

The US Environmental Protection Agency, Region 4 and Region 5 (US EPA) has not participated in agency scoping and pre-DEIS meetings regarding the proposed project. The DEIS considers a No Action baseline and two locations as Alternative 1 in Baldwin, Michigan, and Alternative 2 in Lake City, Florida. No preferred alternative is designated in this document.

EPA has reviewed the DEIS and is providing the following comments regarding the proposal's environmental impacts, purpose and need, alternatives, and mitigation of unavoidable impacts.

ENVIRONMENTAL IMPACTS

WASTEWATER TREATMENT FACILITIES

The Lake City, Florida site proposes adding an on-site package wastewater treatment plant (WWTP) because the community system will not accommodate the increased volume. EPA discourages the use of package WWTP operations. Although such plants can operate successfully, package plants typically have greater noncompliance rates partly due to operator inexperience and higher employee turnover rates. This puts a greater burden on limited state resources for insuring compliance with federal and state pollution discharge programs. We recommend an agreement be reached with the Lake City community to accelerate funding and

construction of the proposed Kicklighter Road WWTP to assure that the community and prison WWTP needs would be optimally met.

The Baldwin, Michigan community WWTP, as stated in the DEIS, is "currently operating at a capacity of 388,000 gallons per day." The DEIS further indicates that the prison facility will more than double the daily volume of wastewater needing treatment. A capacity expansion agreement between the community and the prison facility is near completion, implying an unspecified additional capacity will become available. However, the DEIS is unclear how the local WWTP will accommodate the expected increased volume, nor does it specify the quality of the effluent to be discharged. The Final Environmental Impact Statement (FEIS) should clarify and document the conclusion of "no impact."

PURPOSE AND NEED

No proposed alternative fully satisfies the Purpose and Need of housing 2,500 prisoners. How will this population be fully accommodated? The FEIS should clarify whether this EIS will be used prospectively to justify the construction of the Lake City facility when the Baldwin facility has met its capacity, without further NEPA process. If this is the case, then only one alternative is being presented.

The national media is discussing other federal prison sites beyond this proposal. We recommend the FEIS specify whether enemy combatants, drug smugglers and other similar types of alien prisoners are included in the definition of a low-security inmate population.

ALTERNATIVES

NEPA requires the evaluation of all reasonable alternatives. The alternatives of using federally-owned and operated facilities, and federally-owned and non-federally operated facilities capable of meeting project Purpose and Need were not discussed in the DEIS. The FEIS should discuss whether such options were considered, and if so, how and for what sites.

A brief statement in the DEIS indicates that the Bureau of Prisons considered 14 candidate alternative sites and determined that only the two proposed "fell into the competitive range." Because neither selected alternative fully meets the project Purpose and Need, additional discussion is warranted regarding what constituted the competitive range, and the rationale for eliminating other alternatives from further consideration.

MITIGATION OF UNAVOIDABLE IMPACTS

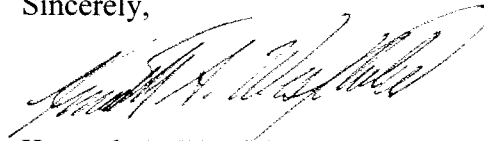
Although the DEIS concludes that no mitigations are needed for the two alternatives proposed, this is contingent upon each site providing specific additional WWTP facilities and local community service arrangements. EPA recommends that the FEIS specify that a mitigation clause be included in each project contract to clarify these expectations. These would include but not be limited to WWTP facilities and community service arrangements.

SUMMARY

EPA is concerned that the proposal does not fully meet the stated project Purpose and Need, the evaluation of alternatives is inadequate, wastewater management may not be adequate, and mitigations need to be clearly identified and specified in contractual documents. Because of these concerns, we rate the overall DEIS as "**Environmental Concerns - Insufficient Information**" (EC-2). We refer you to the above recommendations and the enclosed Summary of Rating Definitions Sheet for a fuller explanation of the ratings. This rating will be published in the Federal Register.

Thank you for the opportunity to comment on this document. We look forward to reviewing future NEPA documents for this project. Should you have any questions regarding our comments, please contact Norm West of my staff, by phone at 312-353-5692 or by e-mail at west.norman@epa.gov, or Beth Walls in EPA Region 4 by phone at 404-562-8309 and e-mail at Walls.Beth@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kenneth A. Westlake', written over a horizontal line.

Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

Enclosures: Summary of Rating Definitions Sheet

SUMMARY OF RATING DEFINITIONS AND FOLLOW UP ACTION*

Environmental Impact of the Action

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impacts. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS state, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1-Adequate

The EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collecting is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information

The draft EIS does not contain sufficient information for the EPA to fully assess the environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640 Policy and Procedures for the Review of the Federal Actions Impacting the Environment